

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF OKLAHOMA,
STATE OF ALABAMA,
STATE OF ARKANSAS,
STATE OF GEORGIA,
STATE OF KANSAS,
COMMONWEALTH OF KENTUCKY,
STATE OF MISSISSIPPI,
STATE OF MISSOURI,
STATE OF MONTANA,
STATE OF NEBRASKA,
STATE OF SOUTH CAROLINA,
STATE OF TEXAS,
STATE OF UTAH,
and
the ARIZONA LEGISLATURE,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY and MICHAEL
S. REGAN, Administrator, United States
Environmental Protection Agency,

Respondents.

No. 24-1125

PETITIONERS' NONBINDING STATEMENT OF ISSUES

In accordance with this Court's Order issued on May 10, 2024, Petitioners the States of Oklahoma, Alabama, Arkansas, Georgia, Kansas, Kentucky, Mississippi, Missouri, Montana, Nebraska, South Carolina, Texas, Utah, and the

Arizona Legislature (the “Petitioners”) challenge the legality of the United States Environmental Protection Agency’s (“EPA”) rulemaking entitled, “Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention,” published at 89 Fed. Reg. 17,622 (Mar. 11, 2024) (the “Final Rule”), and respectfully submit this preliminary and non-binding statement of issues:

1. Whether the Final Rule is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, by imposing burdensome new regulatory requirements without commensurate benefits in safety improvements.
2. Whether the Final Rule is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law, or is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, by increasing costs of compliance and adding on layers of reporting requirements in the Safer Technology and Alternatives Analysis.
3. Whether the Final Rule is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law, or is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, by

increasing homeland security risks due to information disclosure requirements.

4. Whether the Final Rule is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law, or is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, by failing to ensure adequate safeguards to protect sensitive information that the Final Rule requires to be disclosed.
5. Whether the Final Rule is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, by failing to account for requirements of the Emergency Planning and Community Right-to-Know Act and other emergency response laws, which overlap with coordination and emergency response provisions of the Final Rule.

Dated: June 10, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to Fed. R. App. P. 25(c), that the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will send a notification to the attorneys of record in this matter, who are registered with the Court's CM/ECF system.

Dated: June 10, 2024

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